HON'BLE SRI G.S.SINGHVI, THE CHIEF JUSTICE

and
HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 7541 of 2005

Between:

M.Lakshmi Naryana and another

..... Petitioner

AND

The Municipal Corporation,

Rep. by its Commissioner, Warangal and others

.....RESPONDENTS

::JUDGMENT::

Counsel for the Petitioners : MR. K.V.Bhanu Prasad

Counsel for Respondent No.1 : Mr.V.Durga Nageswara Rao

Counsel for Respondent No.2 : Mr.C.Narender

Counsel for Respondent No.3 : Mr.Bankatlal Mandhani

22ND December, 2005

Per G.S.Singhvi, CJ

This petition has been filed by Mr.M.Lakshmi Narayana and Ch.Abbaiah for grant of a declaration that action of respondents
1 and 2 in not removing the wall constructed by respondent No.3 Koyyada Aseervadam across 30 feet road leading to Lashkar Singaram from bestwada is illegal and malicious. Another prayer made by the petitioners is to issue a mandamus to respondents 1 and 2 to remove the wall constructed by respondent No.3.

The petitioners have averred that they are seeking intervention of the Court in public interest because Respondent No.3 has encroached on public road and raised construction and despite the representations made to the authorities of Municipal Corporation, Warangal and Kakatiya Urban Development Authority, they have not taken steps for removing the encroachment.

We have heard the learned counsel for the petitioners and learned counsel representing respondent No.3 and carefully scanned the pleadings. We have also perused certified copy of decree dated 24.11.1993 passed by II Additional District Munsif, Warangal in Original suit No.307 of 1991 (Koyada Jani and another Vs. Selection Grade Municipality, Warangal), which the learned counsel for respondent No.3 produced before us during the course of hearing the case.

A reading of letter No.G4/9540/2003 dated 18.10.2003 sent by City Planner, Warangal Municipal Corporation to petitioner No.2 shows that while expressing inability to take action on the representation made for removing the alleged encroachment made by respondent No.3 on the public land, the officer concerned informed petitioner No.2 that in view of the injunction granted in the civil suit no action can be taken.

In the context of the aforementioned communication sent by the City Planner,

Warangal Municipal Corporation, we enquired from Sri K.V.Bhanu Prasad, the learned counsel for the petitioners as to whether the disputed construction is subject matter of the suit filed by respondent No.3 and, if so, what is the status of the case. In reply, learned counsel showed his ignorance about the nature of the suit as also its. This clearly shows that the petitioners have not appraised their counsel with full facts and tried to mislead the Court in believing that respondent No.3 has illegally encroached on public land and the public authorities have failed to discharge their duties under the relevant statutory provisions.

A perusal of the decree dated 24.11.1993 passed by the
II Additional District Munsif, Warangal shows that the authorities of municipality were permanently restrained from causing loss to the property specified in the schedule appended to the plaint. They were also restrained from demolishing the property. The schedule of the property annexed with the decree shows that compound wall situate at Lashkar Singaram locality of Hanumakonda is a part of the property for which the injunction was granted. We are sure that if the petitioners had disclosed full facts to the Court and placed on record copy of the decree dated 24.11.1993 passed by the II Additional District Munsif, Warangal, they would have been non suited on the ground that in the garb of raising an issue in public interest, they cannot indirectly seek invalidation of the decree passed by the competent Court.

In our opinion, the petitioners are guilty of highly contemptuous conduct, inasmuch as they withheld material facts from the Court and made an attempt to obtain an order of demolition of the so-called unauthorized construction made by respondent No.3 despite the fact that the latter had successfully persuaded the Court of competent jurisdictionto grant injunction against demolition of the construction made by him.

For the reasons mentioned above, the writ petition is dismissed.

G.S.SINGHVI, CJ

Dt.22.12.2005

R.SUBHASH REDDY,J

Msv/svs